

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

WILLIAM ZANOTTI,

Plaintiff,

v.

Case No. 16-cv-814-pp

RICH ZIMKIEWICZ, et al.,

Defendants.

**DECISION AND ORDER GRANTING IN PART THE PLAINTIFF'S
MOTION REQUESTING PERMISSION TO PREPAY
FILING FEE FROM INMATE RELEASE ACCOUNT (DKT. NO. 6)**

On June 27, 2016, William Zanotti, who is representing himself, filed a complaint under 42 U.S.C. §1983, alleging his civil rights were violated. That same day, he also filed a motion for leave to proceed without prepayment of the filing fee. Dkt. No. 2. On June 28, 2016, Magistrate Judge William Duffin (the assigned judge at that time) entered an order requiring the plaintiff to pay \$14.93 as an initial partial filing fee. Dkt. No. 5. On July 5, 2016, the plaintiff indicated his refusal to consent to the jurisdiction of a magistrate judge, so this case was reassigned to this court. Also on July 5, 2016, the plaintiff filed a motion asking that he be allowed to prepay the filing fee with funds from his inmate release account. Dkt. No. 6.

The Prison Litigation Reform Act (PLRA) requires the court to collect filing fees from a “prisoner’s account.” 28 U.S.C. §1915(b). The term “prisoner’s account” encompasses both a prisoner’s release account and general account.

Spence v. McCaughtry, 46 F. Supp. 2d 861, 862 (E.D. Wis. 1999). However, “given the purpose of the release account to provide funds to the prisoner upon his or her release from incarceration, the Court does not deem it prudent to routinely focus on the release account as the initial source of funds to satisfy the filing fee payment requirements of the PLRA.” Smith v. Huibregtse, 151 F. Supp. 2d 1040, 1042 (E.D. Wis. 2001). Nevertheless, upon request, a court may allow a plaintiff to pay a filing fee, or a portion thereof, out of his release account. Doty v. Doyle, 182 F. Supp. 2d 750, 752 (E.D. Wis. 2002).

It is unclear to the court from the plaintiff’s motion whether he wants to pay the entire \$350 filing fee with funds from his release account or only the \$14.93 initial partial filing fee. According to his trust account statement, as of June 2016, the plaintiff had \$454.18 in his release account. Thus, while the plaintiff has sufficient funds in his release account to cover the entire \$350 filing fee, allowing him to use that much of the fund would significantly deplete the account. Given the Department of Corrections’ stated purpose for that account (i.e., to provide inmates with financial means upon their release), the court does not believe it is prudent to allow the plaintiff to use nearly all of the funds in that account to prepay a case filing fee, especially when the PLRA allows inmates to pay the fee over time. The court will allow the plaintiff to use his release account funds to pay the \$14.93 initial partial filing fee so that he may continue with his litigation. Once the court receives the initial partial filing fee, it will screen the plaintiff’s complaint pursuant to 28 U.S.C. §1915A.

The court **ORDERS** that the plaintiff's "Motion Requesting Permission to Prepay Filing Fee from Inmate Release Account" (Dkt. No. 6) is **GRANTED** in part.

The court further **ORDERS** that the Director at Wisconsin Resource Center shall withdraw \$14.93 from the plaintiff's release account and forward that sum to the clerk of court as payment for the initial partial filing fee in this action. The Director shall make such payment by **August 16, 2016**.

The court will mail a copy of this order to the Director of Wisconsin Resource Center.

Dated in Milwaukee, Wisconsin this 14th day of July, 2016.

BY THE COURT:

A handwritten signature in dark ink, consisting of a large, stylized 'P' followed by a horizontal line extending to the right.

HON. PAMELA PEPPER
United States District Judge